

**In the United States District Court
For the Southern District of Georgia
Brunswick Division**

ANDREW WILLIAM ECKERD,

Plaintiff,

v.

NIGEL LUSH, et al.,

Defendants.

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CIVIL ACTION NO.: 2:22-cv-125

ORDER


This matter is before the Court on the Magistrate Judge's Report and Recommendation dated February 6, 2023. Dkt. No. 9. Plaintiff filed Objections, but his Objections are unresponsive to the Report and Recommendation. Dkt. No. 11.

The Magistrate Judge recommended dismissal of Plaintiff's cause of action because Plaintiff has three "strikes" under 28 U.S.C. § 1915(g) and recommended denial of Plaintiff's Motion for Preliminary Injunction. In his Objections, Plaintiff merely repeats the allegations found in his Motion for Preliminary Injunction, contending he is being detained in prison beyond his release date. A "prisoner in state custody cannot use a [42 U.S.C.] § 1983 action to challenge the 'fact or duration of his confinement.'" Wilkinson v. Dotson, 544 U.S. 74, 78 (2005)

(quoting Preiser v. Rodriguez, 411 U.S. 475, 489 (1973)). To the extent Plaintiff challenges the fact or duration of his confinement, his remedy lies in habeas corpus relief, not in this § 1983 action or his Objections.

Thus, after an independent and de novo review of the entire record, the Court **CONCURS** with the Magistrate Judge's Report and Recommendation, **ADOPTS** the Report and Recommendation as the opinion of the Court, and **OVERRULES** Plaintiff's Objections. The Court **DISMISSES** Plaintiff's Complaint, **DIRECTS** the Clerk of Court to **CLOSE** this case and enter the appropriate judgment of dismissal, and **DENIES** Plaintiff *in forma pauperis* status on appeal.

SO ORDERED, this 16 day of March, 2023.



HON. LISA GODBEY WOOD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA